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the owner, then due or thereafter to become due to the contractor, where the owner had notice of its execution.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 759.]  
Burks, J., dissenting.

Appeal from Law and Chancery Court of City of Roanoke.

Suit by W. C. Brunner against Z. T. Watson and another. From a decree in favor of the plaintiff, the named defendant appeals. Affirmed.

*C. S. McNulty*, of Roanoke, and *Morris L. Masinter*, of Richmond, for appellant.

*Jas. A. Bear*, of Roanoke, for appellee.

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ROBERTSON *v.* COMMONWEALTH.

Sept. 16, 1920.

[105 S. E. 215.]

**Taxation (§ 356\*)—Notes Given at Judicial Sale Subject to Assessment at Face Value, Notwithstanding Deduction Which Purchaser Might Make.**—Where the decree confirming a judicial sale of property provided that deferred purchase money notes should be applied, first, to the payment of a particular lien; next, to the payment of the receiver's debts; third, to payment of coupons; and, last, to payment of bonds—and that as to any class of lien, in place of paying cash, purchaser might apply any receipts or other indebtedness which he may hold against such class of liens, except the last, debts of the first and second class, held by the purchaser and intended to be applied on the notes, cannot, where they have not been applied and the deductions made, be deducted by the special commissioner holding the notes for the purpose of assessment of such property for taxation, for the tax is to be assessed pursuant to Acts 1916, c. 492, Acts Ex. Sess. 1915, c. 117, and Code 1904, § 492a, and the fact that an individual assessed under Acts Ex. Sess. 1915, c. 117, § 1, schedule C, § 8, class 1, is allowed to deduct his debts furnishes no reason for making similar deductions on property classed under class 3; the assessment not being against the maker of the notes, but against the funds in the hands of the special commissioner.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 103.]

Error to Circuit Court, Wise County.

Motion by W. H. Robertson, special commissioner, against the Commonwealth of Virginia, for correction of an erroneous

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

assessment for taxes. There was a judgment against the commissioner, and he brings error. Affirmed.

*E. M. Fulton*, of Bristol, and *W. H. Rouse*, of Wise, for plaintiff in error.

*Ino. R. Saunders*, *Atty. Gen.*, and *J. D. Hank, Jr.*, *Asst. Atty. Gen.*, for the Commonwealth.

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STATE HIGHWAY COMMISSIONER *v.* KREGER.

Sept. 10, 1920.

[105 S. E. 217.]

**1. Eminent Domain (§ 198 (1)\*)—Question as to Operation of Certain Statutes Held Immaterial.**—Since Acts Extra Sess. 1919, c. 31, providing for the condemnation of highways, sufficiently guarantees the compensation provided for by Const. 1902, § 58, consideration of the question whether other statutes sufficiently provide for the raising of the fund from which compensation is to be paid, etc., is not necessary.

**2. Eminent Domain (§ 71\*)—Provision for Payment of Compensation before Entry Sufficient Compliance with Constitutional Guaranty.**—Acts Extra Sess. 1919, c. 31, allowing condemnation of highways by the highway commission, and providing that compensation shall be paid before title shall vest or the commission shall have the right to enter, is, in view of its similarity to other eminent domain statutes, a sufficient protection of the right to compensation guaranteed by Const. 1902, § 58.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 96, 97.]

**3. Eminent Domain (§ 71\*)—Right to Compensation Not Infringed because Proceedings Might Be Abandoned.**—The right to compensation for property taken for public use, guaranteed by Const. 1902, § 58, is not infringed by Acts Extra Sess. 1919, c. 31, providing for condemnation of highways, and declaring that until compensation is paid title shall not vest and entry shall not be made, because the state highway commission might, after instituting proceedings, abandon them, and there is no provision for security that the money shall be forthcoming on assessment of compensation; the contingency that proceedings may be abandoned being a burden which landowners must bear.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 98.]

**4. Eminent Domain (§ 71\*)—Condemnation Statute Sufficiently Provides for Compensation.**—Acts Extra Sess. 1919, c. 31, providing

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.